

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

MICHAEL DAVIS, }  
v. }  
TAMRAT H. ASRAT and }  
TANA LOGISTICS, LLC }  
  
*Plaintiff,* }  
No. \_\_\_\_\_  
  
*JURY DEMANDED*  
  
*Defendants.* }

## **NOTICE OF REMOVAL**

Defendant Tamrat Asrat (“Defendant”), by and through undersigned counsel of record, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and the Local Rules of this Court, hereby files this Notice of Removal and seeks removal of this cause of action from the Circuit Court of Tennessee of Haywood County, Tennessee to the United States District Court for the Western District of Tennessee, Eastern Division.

## BACKGROUND

Plaintiff Michael Davis (“Plaintiff”) filed this lawsuit in the Circuit Court of Haywood County, Tennessee, on June 7, 2022.<sup>1</sup> He alleges that, on or about January 7, 2022, the Plaintiff was involved in a motor vehicle accident with Defendant Tamrat Asrat. (Compl. ¶ 14.) Plaintiff alleges the vehicle Defendant was operating was owned by Separate Defendant Tana Logistics,

<sup>1</sup> A copy of the underlying complaint is attached and incorporated into this Notice as **Exhibit A**. Any discussion of the allegations in the Complaint herein is simply a recitation of Plaintiff's Complaint and should not be construed as admission of any such allegations on the part of Defendants.

LLC. Plaintiff has brought a negligence, negligence per se, and negligent entrustment/hiring/supervision causes of action against Defendants, which Defendant Asrat denies any liability and/or negligence in this matter. (*see generally* Compl.). Plaintiff seeks damages in the amount over the requirement for diversity jurisdiction. (Compl. ¶ Prayer for Relief).

Defendant Asrat was not properly served until on or about September 17, 2022. Defendant Asrat now seeks removal of this matter to this Honorable Court for adjudication.

## **LAW AND ARGUMENT**

### **I. Defendants Have Satisfied All Procedural Requirements for Removal.**

On June 7, 2022, Plaintiff commenced the above-styled civil action in the Circuit Court of Haywood County Tennessee, styled as *Michael Davis v. Tamrat Asrat and Tana Logistics, LLC.*, docketed at No. 4742 (the “Civil Action”). This action is currently pending in Circuit Court of Haywood County Tennessee.

Defendant Asrat first received a copy of the lawsuit when served on or about September 17, 2022. Plaintiff had previously attempted to perfect service on Defendant Asrat on or about June 17, 2022, but service was not perfected as the private process server left a copy of the summons and complaint at the wrong address. Defendant Asrat, via special appearance only, filed a motion to dismiss pursuant to Tenn. Rule. Civ. P. 12.02, specifically seeking dismissal for Plaintiff’s failure of proper service on September 7, 2022.

Subsequent to filing said motion, Plaintiff issued new summons to Defendant Asrat on or about September 13, 2022 and served Defendant Asrat on or about September 17, 2022. As such, the Motion to Dismiss will not be set for hearing as Defendant Asrat has now been made aware of and has been served in this instant suit.

All process, filings, pleadings, and/or orders served on Defendants to date, and all items received by the State Court, are attached and incorporated herein, and constitute all filings made to date in the entire case.<sup>2</sup> No previous application has been made for the relief requested herein.

Pursuant to 28 U.S.C. § 1446(d), Defendant will provide contemporaneous written notice to Plaintiff and separate Defendant Tana Logistics, and Defendant will file the attached Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Haywood County Tennessee for the Twenty-Eighth Judicial District at Brownsville.<sup>3</sup>

**II. Removal is Proper Because This Court Has Subject Matter Jurisdiction Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.**

This Court has subject matter jurisdiction under 28 U.S.C. § 1332 as this is a civil action where the amount in controversy exceeds \$75,000.00, exclusive of costs and interest, and is between citizens of different states.

A) Complete Diversity of Citizenship Exists Between the Plaintiff and Defendants

The parties are completely diverse. Plaintiff alleges he is a resident of Lonoke County, Arkansas (Compl. ¶ 1.) Conversely, Defendant Asrat has been alleged as, and in fact is, an adult citizen and resident of Virginia. (Id. ¶ 2). Further, Defendant Tana Logistics, LLC has been alleged as, and in fact is, a foreign limited-liability company doing business in the state of Nevada. (Id. at ¶ 3). As such complete diversity of citizenship exists between the Plaintiff, Defendant Asrat, and Defendant Tana Logistics, LLC.

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<sup>2</sup> A copy of the state court docket with all pleadings, process, motions, notices, and/or orders are attached and incorporated into this Notice as **Exhibit B**.

<sup>3</sup> A copy of the Notice to the State Court is attached and incorporated into this Notice as **Exhibit C**.

**B) Removal of this Action is Timely**

Defendant Asrat first received a copy of the lawsuit when served on or about Sept. 17, 2022. Based on information and belief, Defendant Tana Logistics first received a copy of the lawsuit when served in June 2022.

This Notice of Removal is timely as it is being filed within thirty (30) days of service by a later served Defendant. *See 28 U.S.C. § 1446(b)(2)(C)* (“[i]f defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal.”) Here, while Defendants Tana Logistics, LLC was the earlier-served Defendant, Defendant Asrat now files this Notice of Removal within thirty (30) days of his service. Further, Defendants have done nothing in the Civil Action in the State Court that would in any way affect this Court’s removal and subject matter jurisdiction over this matter.

**C) Venue is Proper**

Venue of this removal action is proper pursuant to 28 U.S.C. § 1441(a) as this Court is the United States District Court for the district and division where the Civil Action is pending.

**D) The Amount in Controversy Requirement is Satisfied**

Plaintiff alleges damages in an amount of \$7,000,000.00, which would be in excess of \$75,000. (*See Compl. “Relief Sought”*) “To ensure that diversity jurisdiction does not flood the federal courts with minor disputes, § 1332(a) requires that the matter in controversy in a diversity case exceed a specified amount, currently \$75,000.” *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005). The matter is removable as the damages sought exceed the jurisdictional minimum.

E) Unanimity is Met

Lastly, unanimity is satisfied. "Under the rule of unanimity, ordinarily all defendants must join in a notice of removal or the case will be remanded." *Bradley v. Md. Cas., Co.*, 382 F.2d 415, 419 (8th Cir. 1967). Plaintiff has filed suit against Defendants, and Defendant Tana Logistics has no objection to Removal. As such, unanimity is met.

**WHEREFORE, PREMISES CONSIDERED,** Defendant Asrat requests that this Court now REMOVE this Civil Action from the Circuit Court of Haywood County Tennessee for the Twenty Eighth Judicial District at Brownsville, and that further proceedings now be conducted in the United States District Court for the Western District of Tennessee, Western Division, as provided for and consistent with the laws of the United States of America.

This the 14th day of October 2022.

Respectfully submitted,

MCANGUS GOUDELOCK & COURIE, LLC

/s/ Garrett H. O'Brien

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ATTORNEY FOR DEFENDANT  
TAMRAT ASRAT

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon all counsel of record via electronic means and/or by depositing a copy of the same in an official depository of the U.S. Mail in a postage-paid envelope addressed as follows:

Ryan M. Skertich Morgan & Morgan - Memphis, LLC 80 Monroe Avenue, Suite 900 Memphis, Tennessee 38103 Email: rskertich@forthepeople.com <i>Attorney for Michael Davis</i>	Cynthia D. Hall, Spears, Morre, Rebman & Williams, PC PO Box 1749 Chattanooga, TN 37401 Email: cdh@smrw.com <i>Attorney for Tana Logistics, LLC</i>
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This the 14<sup>th</sup> day of October 2022.

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/s/ Garrett H. O'Brien  
GARRETT H. O'BRIEN